

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

|                             |   |                    |
|-----------------------------|---|--------------------|
| HUDSON B. JONES,            | ) |                    |
|                             | ) |                    |
| Petitioner,                 | ) |                    |
|                             | ) |                    |
| v.                          | ) | No. 4:10CV1423 CDP |
|                             | ) |                    |
| MISSOURI BOARD OF PROBATION | ) |                    |
| AND PAROLE, et al.,         | ) |                    |
|                             | ) |                    |
| Respondents.                | ) |                    |

**MEMORANDUM AND ORDER**

This matter is before the Court on petitioner's application for writ of habeas corpus. The petition will be summarily dismissed without prejudice because petitioner has not exhausted his available state remedies before bringing the petition in this Court.

Petitioner is incarcerated at the Southeast Correctional Center after having been convicted of forcible rape and given a life sentence for his crime. In the instant petition, petitioner challenges the Board of Probation and Parole's 2009 decision to deny petitioner's request for parole. Petitioner has filed this petition without first challenging the Board's decision in the Missouri courts.

**Discussion**

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

In the absence of exceptional circumstances, a state prisoner must exhaust currently available and adequate state remedies before invoking federal habeas corpus jurisdiction. Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484 (1973). Missouri law provides at least three distinct avenues for challenging a parole decision: by bringing a declaratory action against the Board, by filing a state petition for habeas corpus, or by filing a petition for writ of mandamus. Wayne v. Missouri Board of Probation and Parole, 83 F.3d 994, 996-97 (8th Cir. 1996).

Because petitioner has not exhausted his available state remedies, the Court will dismiss the petition without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DISMISSED** without prejudice.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability.

An Order of Dismissal shall accompany this Memorandum and Order.

Dated this 31st Day of August, 2010.

A handwritten signature in black ink, reading "Catherine D. Perry", is written over a horizontal line.

CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE